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Joint Committee on Taxation
June 9, 1989
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H.R. 1761: CORPORATE MINIMUM TAX[1]

Scheduled for Markup by the Ways and Means Subcommittee on Select Revenue Measures

Present Law

Under present law, corporations are subject to an alternative minimum tax which is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax owed. The tax is imposed at a flat rate of 20 percent on alternative minimum taxable income in excess of the exemption amount. Alternative minimum taxable income is the corporation's taxable income increased by the corporation's tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items. The exemption amount is $40,000, reduced (but not below zero) by 25 percent of the amount by which alternative minimum taxable income exceeds $150,000. The foreign tax credit (computed based on items of alternative minimum taxable income), and to a limited extent the regular investment tax credit, may be used to offset the alternative minimum tax.

Where a corporation pays the alternative minimum taxable income, the amount of the tax paid (to the extent attributable to adjustments relating to timing differences with the regular tax) is allowed as a credit against the regular tax in future years. This credit (known as the alternative minimum tax credit) cannot be used to reduce tax below the tentative minimum tax in subsequent years.

Also, net operating losses, foreign tax credits, and investment tax credits cannot be used to offset, in the aggregate, more than 90 percent of the pre-foreign tax credit minimum tax which would otherwise be determined.

Adjustments and preferences are provided for accelerated depreciation, mining exploration and development costs,

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[1] For more details on present law, background, and issues involved, see Joint Committee on Taxation pamphlet, Description of H.R. 1761 Relating To Simplification of Corporate Minimum Tax (JCS-14-89), May 25, 1989.

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certain long-term contracts, pollution control facilities, certain installment sales, Merchant Marine Capital Construction Funds, special insurance deductions, percentage depletion, excess intangible drilling costs over 65 percent of oil and gas income, certain debt reserves of financial institutions, tax-exempt interest on certain newly issued private activity bonds, and charitable deductions of appreciated property.

In addition, in computing alternative minimum taxable income, for taxable years beginning before 1990, alternative minimum taxable income is increased by one-half of the amount by which the corporation's pre-tax book income exceeds the corporation's alternative minimum taxable income (determined without regard to this adjustment and without regard to net operating losses). Book income generally is the amount that the corporation discloses on its financial statement prepared for creditors, shareholders, regulatory purposes, and so forth.

For taxable years beginning after 1989, the adjustment for book income no longer applies and, instead, alternative minimum taxable income is increased by an amount equal to 75 percent of the amount by which adjusted current earnings exceed alternative minimum taxable income (before this adjustment). In general, adjusted current earnings means alternative minimum taxable income as computed above with additional adjustments. These adjustments generally follow the rules presently applicable to corporations in computing their earnings and profits. Thus, for example, depreciation is computed using the alternative depreciation system used for earnings and profits purposes. For depreciation on property placed in service before 1990, the remaining ACRS basis (remaining minimum tax basis for property to which the new ACRS system applies) is recovered over the remaining ADR midpoint life. In addition, the amount of the deduction for certain items such as depreciation and depletion, cannot exceed the corporation's book treatment of the item, based on a present value computation.

Explanation of the Bill

In general.--H.R. 1761 would simplify the corporate minimum tax for taxable years beginning after 1989 by repealing the adjusted current earnings (ACE) preference as a separate preference and by integrating its component items into the regular minimum tax as separate preferences. Thus, those ACE preferences integrated into the regular minimum tax would become full preferences rather than 75-percent preferences, as under present law.

Depreciation.--Under the bill, generally, depreciation would be computed by using the present law minimum tax treatment (sec. 56(a)(1)) for tangible property placed in

service in tax
able years beginning before 1990 and the
alternative de
preciation system for property placed in
service there
after. Thus, depreciation on tangible property
placed in ser
ice before 1981 or to which the original ACRS
system applie
would generally not be treated as a
preference; de
preciation on tangible property placed in
service in tax
able years beginning before 1990 to which the
new ACRS syste
m applies would continue to be treated as under
present law (i
.e., using the alternative depreciation system,
but with 150 p
ercent declining balance method for property
other than rea
l property); and depreciation on property
placed in serv
ice in taxable years beginning after 1989 to
which the new
ACRS system applies would use the alternative
depreciation s
ystem. Depreciation shown on the taxpayer's
books would no
t be taken into account in determining
alternative mi
nimum taxable income. This method of
depreciation w
ould apply to individuals as well as
corporations.

IDCs, etc
.--In the case of intangible drilling costs,
the earnings a
nd profits method (i.e., 60-month amortization
for productive
wells) would apply, without regard to the book
method used by
the taxpayer. The allowance for depletion
would be deter
mined under the cost depletion method without
regard to the
method used for book purposes.

Other pre
ference items.--The remaining items of the
adjusted curre
nt earnings preference would be treated as
separate minim
um tax preferences. Thus, for example,
tax-exempt int
erest would be fully included in the minimum
taxable income
of corporations and the dividends received
deduction woul
d not be allowed (except in certain
parent-subsidi
ary situations for which a deduction is
presently prov
ided under ACE).

Further,
the bill would make several additional minor
changes. The
corporate preference for circulation expenses
would be confo
rmed to the individual preference (i.e., 3-year
amortization).
Gain on installment sales with respect to
which interest
is paid at the tax underpayment rate would be
allowed minimu
m tax installment sale treatment since
appropriate in
terest is being paid for the right to defer
payment of the
tax. The special treatment of annuities would
be deleted as
unnecessary by reason of the exceptions added
by the Technic
al and Miscellaneous Revenue Act of 1988.

Efective
date.--The bill would apply to taxable years
beginning afte
r December 31, 1989.

Revenue Effect of the Bill

(In $ Billions by Fiscal Year)

1990	1991	1992	1993	1994	1990-1994
-2.3	-1.7	-0.1	*	*	-4.2

* = Loss of less than $50 million.

Possible Option

A possible option may be offered at a later time.